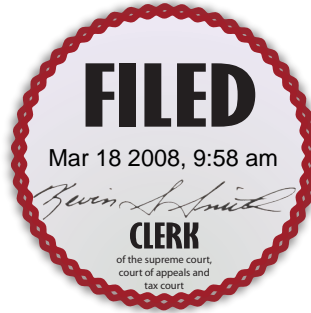


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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CHRISTOPHER COX,  
  
Appellant-Defendant,

vs.

STATE OF INDIANA,  
  
Appellee-Plaintiff.

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No. 30A04-0708-CR-426

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APPEAL FROM THE HANCOCK SUPERIOR COURT  
The Honorable Terry K. Snow, Judge  
Cause No. 30D01-0608-FD-178

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**March 18, 2008**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**MATHIAS, Judge**

Christopher Cox (“Cox”) was convicted in Hancock Superior Court of Class D felony intimidation and sentenced to a suspended sentence of eighteen months probation of which the first nine months were to be served on home detention. Upon appeal, Cox argues that the evidence is insufficient to establish that he committed intimidation. We affirm.

### **Facts and Procedural History**

On August 24, 2006, Desiree Welborn (“Desiree”) and Cox were driving back to their home in New Palestine when an argument began. Desiree told Cox to get out of the vehicle in Martinsville, and she drove off. She decided to move out of the home she shared with Cox with the help of her father, Billy Welborn (“Billy”). Cox contacted his cousin who drove him home.

Desiree arrived at the home and with Billy’s help, she began to move her belongings out of the home. Shortly thereafter, Cox arrived home and saw Desiree carrying a bag of clothes out to her vehicle. He exited his vehicle and quickly walked towards her and with an outstretched hand, he said, “I’m going to f--- you up.” Tr. p. 78. Billy stepped between them and said, “No you’re not while I’m here,” and punched Cox in the jaw. Tr. p. 186. Desiree ran to her neighbor’s house, and Billy went to his truck. Desiree’s mother was across the street. Cox began to throw sockets from his toolbox at Billy and apparently struck Desiree’s mother. Cox then went inside and grabbed a metal baseball bat and was brandishing it when the police arrived.

On August 25, 2006, Cox was charged with Class D felony intimidation. On May 22, 2007, a jury found Cox guilty as charged. On June 27, 2007, the trial court sentenced Cox. Cox appeals.

### **Discussion and Decision**

When we review a claim of sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of witnesses. Jones v. State, 783 N.E.2d 1132, 1139 (Ind. 2003). We look only to the probative evidence supporting the verdict and the reasonable inferences to be drawn therefrom to determine whether a reasonable trier of fact could conclude the defendant was guilty beyond a reasonable doubt. Id. If there is substantial evidence of probative value to support the conviction, it will not be set aside. Id.

Cox argues that the evidence is insufficient to support his intimidation conviction. To convict Cox of Class D felony intimidation, the State needed to prove that he communicated a threat to commit a forcible felony to another person, with the intent that the other person engage in conduct against the other person's will; that the other person be placed in fear of retaliation for a prior lawful act; or of causing a dwelling, a building, or another structure; or a vehicle to be evacuated. Indiana Code section 35-45-2-1 (2004).

The evidence at trial established that Cox did communicate a threat to commit a forcible felony against Desiree when he said, "I'm going to f--- you up." While the State did not provide direct testimony about what Cox's intent was when he uttered that threat, it is a rare occasion that a defendant will actually state the reason and intent for his or her

actions. See White v. State, 846 N.E.2d 1026, 1030 (Ind. Ct. App. 2006). The State argues that Cox wanted to prevent Desiree from removing her belongings from the house. Cox argues that he wanted Desiree to leave his house, the sooner the better but that he did not want her to take anything from the house in case it was not her property.

In this case, Cox testified that he did not threaten Desiree and merely wanted Desiree and her parents to leave. However, there was conflicting testimony about the incident, such as the testimony from a next-door neighbor, Lori Jackson who referred to statements made by Cox. Specifically, she stated that he said that he would put them in jail for coming in the house and that he would “hurt them all.” Tr. p. 128. This testimony could provide a sufficient basis for the jury to infer the requisite intent of preventing Desiree from taking items from the home. Cox’s argument is simply a request for this court to reweigh the evidence, which we will not do. Jones, 783 N.E.2d at 1139. This evidence is sufficient to support Cox’s Class D felony intimidation conviction.

Affirmed.

FRIEDLANDER, J., and ROBB, J., concur.